

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Blue Spike, LLC,

Plaintiff,

v.

TEXAS INSTRUMENTS, INC., et
al.,

Defendants.

CASE NO. 6:12-cv-499 LED

LEAD CASE

Jury Trial Demanded

Blue Spike, LLC,

Plaintiff,

v.

3M Cogent, Inc.,

Defendant.

CASE NO. 6:12-CV-685 LED

CONSOLIDATED CASE

Jury Trial Demanded

**PLAINTIFF'S REPLY IN RESPONSE TO
DEFENDANT 3M COGENT'S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of 3M Cogent, Inc. ("3M Cogent" or "Defendant") (Dkt. No. 361) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

PARTIES

1. Plaintiff admits the allegations of Paragraph 1, upon information and belief.
2. Plaintiff admits the allegations of Paragraph 2.

JURISDICTION AND VENUE

3. Plaintiff admits the allegations of Paragraph 3.
4. Plaintiff admits the allegations of Paragraph 4.

5. Plaintiff admits the allegations of Paragraph 5.

**COUNT I: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '472 PATENT**

6. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 5 above.
7. Plaintiff denies the allegations of Paragraph 7.
8. Plaintiff admits the allegations of Paragraph 8.
9. Plaintiff denies the allegations of Paragraph 9.

**COUNT II: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '472 PATENT**

10. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 9 above.
11. Plaintiff denies the allegations of Paragraph 11.
12. Plaintiff admits the allegations of Paragraph 12.
13. Plaintiff denies the allegations of Paragraph 13.

**COUNT III: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '700 PATENT**

14. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 13 above.
15. Plaintiff denies the allegations of Paragraph 15.
16. Plaintiff admits the allegations of Paragraph 16.
17. Plaintiff denies the allegations of Paragraph 17.

**COUNT IV: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '700 PATENT**

18. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 17 above.

- 19. Plaintiff denies the allegations of Paragraph 19.
- 20. Plaintiff admits the allegations of Paragraph 20.
- 21. Plaintiff denies the allegations of Paragraph 21.

**COUNT V: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '494 PATENT**

- 22. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 21 above.
- 23. Plaintiff denies the allegations of Paragraph 23.
- 24. Plaintiff admits the allegations of Paragraph 24.
- 25. Plaintiff denies the allegations of Paragraph 25.

**COUNT VI: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '494 PATENT**

- 26. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 25 above.
- 27. Plaintiff denies the allegations of Paragraph 27.
- 28. Plaintiff admits the allegations of Paragraph 28.
- 29. Plaintiff denies the allegations of Paragraph 29.

**COUNT VII: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '175 PATENT**

- 30. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 29 above.
- 31. Plaintiff denies the allegations of Paragraph 31.
- 32. Plaintiff admits the allegations of Paragraph 32.
- 33. Plaintiff denies the allegations of Paragraph 33.

**COUNT VIII: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '175 PATENT**

34. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 33 above.

35. Plaintiff denies the allegations of Paragraph 35.

36. Plaintiff admits the allegations of Paragraph 36.

37. Plaintiff denies the allegations of Paragraph 37.

EXCEPTIONAL CASE

38. Plaintiff denies the allegations of Paragraph 38.

PRAYER FOR RELIEF

39. Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Respectfully submitted,

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Counsel for Blue Spike, LLC

CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser

Randall T. Garteiser